



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

October 13, 2015

1510-SE-03

Exhibit 1

**Petition Number:** 1510-SE-03

**Subject Site Location:** 16414 Towne Road

**Petitioner:** Crown Castle

**Request:** The petitioner is requesting approval of a Special Exception to allow a new Wireless Communication Service Facility in the AG-SF1: Agriculture / Single-Family Rural District (*Chapter 13: Use Table*).

**Current Zoning:** AG-SF1

**Current Land Use:** Single-Family Residential

**Approximate Acreage:** 34.2 acres+/- (parent parcel)

**Exhibits:**

1. Staff Report
2. Aerial Location Map
3. Application
4. Construction Plans

**Staff Reviewer:** Kevin M. Todd, AICP

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**PETITION HISTORY**

This petition will receive a public hearing at the October 13, 2015, Board of Zoning Appeals meeting.

If the Board of Zoning Appeals approves the requested Special Exception, then Development Plan approval by the Advisory Plan Commission would be required for the tower.

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**ANALYSIS**

Location: The subject parent property is approximately 34.2 acres +/- in size and located at 16414 Towne Road (see Exhibit 2) (the "Property"). The Property is zoned AG-SF1 and currently contains a residential structure. The surrounding adjacent properties to the north, west, and east are zoned AG-SF1 and are large-lot, rural-residential/agricultural in nature and use. Adjacent property to the south is zoned SF-2 and is currently pending plat approval for a residential subdivision called Bent Creek.

Wireless Communication Service Facilities are permitted by Special Exception within the AG-SF1 zoning classification. The request is to allow a Wireless Communication Service Facility on the Property.



Project Description: In order to provide a certain level of wireless communication service within this area of Westfield, new antenna equipment is needed. There are no existing nearby co-location options that could accommodate the volume of equipment needed to affect the service level, so a new tower would be needed in order to install new equipment. The proposal is to install a new monopole tower that is 168 feet tall (including lighting rod) and ancillary equipment building(s) on the Property. Proposed access to the tower and equipment would be within an access and utility easement from Towne Road. The proposal indicates fencing and landscaping would be installed around the perimeter of the lease area for the tower.

As proposed, the tower would be over 200 feet from any property line, which exceeds with the setback requirements of the Wireless Communication Service Facilities ordinance (Article 6.20). The tower would also be approximately 475 feet from the nearest building (which is the residential building on the Property).

If the Special Exception is approved through this request, this project would require Development Plan review and approval by the Advisory Plan Commission. All requirements of the City's Wireless Communication Service Facilities ordinance (Article 6.20) would apply.

Comprehensive Plan: The Comprehensive Plan identifies this Property within the "New Suburban" land use classification. Single-family residential land uses are recommended in this area of the community.

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## **PROCEDURAL**

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception and Variances of Development Standard. The petitions are scheduled to receive its public hearing at the October 13, 2015, Board of Zoning Appeals meeting. Notice of the public hearings were properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO<sup>1</sup> and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO<sup>2</sup> requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance

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<sup>1</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>2</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Special Exceptions: The UDO (Chapter 12: Definitions) defines “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted”.

Special Exception Decision Criteria: A Special Exception may be approved by the Board of Zoning Appeals only upon the determination in writing that the Special Exception at the proposed location meets the following<sup>3</sup>:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area;
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District;
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services;
5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way;
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan; and
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

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<sup>3</sup> Article 10.11(D) Processes and Permits; Special Exceptions; Review Criteria



#### **DEPARTMENT COMMENTS**

- If the Board of Zoning Appeals is inclined to **APPROVE** the Special Exception, then the Department recommends approving the petitions with the following **conditions**:

##### **Recommended Conditions:**

1. That the height of the tower not exceed 168 feet (including the lighting rod); and,
2. That landscaping be installed in a manner that is substantially similar to what is depicted in **Exhibit 4** of the staff report.

- The Department recommends the following **Findings of Fact** for the Special Exception case:

##### **Recommended Findings of Fact (APPROVAL):**

1. *The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare:*

**Finding:** It is unlikely that allowing a Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. Wireless communication facilities are located throughout the community, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower would increase cell/wireless service in this area of Westfield.

2. *The Special Exception will: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed tower would be setback at least 200 feet from the nearest property line, and the use is otherwise contemplated as appropriate in the AG-SF1 (Agriculture-Single Family Rural) District. Feedback from adjacent property owners should provide insight regarding the impact on adjacent properties.

3. *The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district:*

**Finding:** The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The proposed tower would be setback at least as many feet from a property line as the tower is tall (in this case, 168 feet). As such, the use is compatible with permitted uses of the AG-



SF1 (Agriculture-Single Family Rural) District and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *Adequate public utilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:*

**Finding:** The use should have little or no impact on utilities, streets, drainage or other necessary facilities.

5. *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches designed as not to create an interference with traffic on surrounding rights-of-way:*

**Finding:** The Special Exception is expected to have a nominal increase, if any, in the number of trips to be generated beyond that of a typical residential or agriculturally utilized property. As a result, no traffic congestion is expected.

6. *The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan:*

**Finding:** The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.

7. *The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements set forth, applicable to such Special Exception, will be met:*

**Finding:** The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The use and Property will otherwise comply with or exceed the applicable standards of the AG-SF1 (Agriculture-Single Family Rural) District and the Wireless Communication Service Facilities ordinance.



**If the Board of Zoning Appeals is inclined to DENY the Special Exception**, then the Department recommends approval of the following findings:

Recommended Findings for Denial:

1. *The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare:*

**Finding:** It is unlikely that allowing a Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. Wireless communication facilities are located nearby, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower would increase cell/wireless service in this area of Westfield.

2. *The Special Exception will: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:*

**Finding:** It is possible the use and value of adjacent property would be affected in a substantially adverse manner. The proposed Special Exception may have a negative impact on surrounding properties because of some general perceptions that living next to (or near) a wireless communication tower is undesirable. While there is little market evidence to support that claim, those perceptions may influence potential future home-buyers and/or negatively impact adjacent property values.

3. *The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district:*

**Finding:** The proposed location of the tower would be within a couple hundred feet of new home lots in a pending subdivision (Bent Creek). The tower's presence may impact the final layout of the subdivision or design decisions for lots/homes closest to the tower in order to mitigate any visual or other impact the tower may have on the development.



4. *Adequate public utilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:*

**Finding:** The use should have little or no impact on utilities, streets, drainage or other necessary facilities.

5. *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches designed as not to create an interference with traffic on surrounding rights-of-way:*

**Finding:** The Special Exception is expected to have a nominal increase, if any, in the number of trips to be generated beyond that of a typical residential or agriculturally utilized property. As a result, no traffic congestion is expected.

6. *The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan:*

**Finding:** The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.

7. *The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements set forth, applicable to such Special Exception, will be met:*

**Finding:** The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The use and Property will otherwise comply with or exceed the applicable standards of the AG-SF1 (Agriculture-Single Family Rural) District and the Wireless Communication Service Facilities ordinance.